

### **REMARKS**

In response to the final Official Action of April 30, 2009, reconsideration of the rejection of the claims is earnestly solicited.

#### **Claim Rejections - 35 USC §103**

At section 5, claims 1, 3-11, 13-19, 21-29, 31-41, 43, and 44 are rejected under 35 USC §103(a) as unpatentable in view of US patent 6,226,618, Downs, et al (hereinafter Downs).

With respect to claim 1, it is asserted that Downs discloses the claimed method except that “Downs does not expressly disclose teach a single package including both the content SC and the usage condition”. However, the Office goes on to state that “it has been held that construing a formerly integral structure in various elements involves only routine skill in the art.” (citations omitted). Applicant respectfully disagrees with this assessment by the Office.

The Office specifically recites the table in Downs at column 19 steps 133-148 and column 27, lines 10-21, columns 59 and 60 - “Usage Conditions Tool”.<sup>1</sup>

Steps 133-148 are relied upon by the Office for teaching the following actions recited in claim 1:

- verifying the integrity of the information contained in a package for distribution by an electronic device, wherein said package further contains at least one media object and said information is indicative of the conditions in which the distribution of the package is allowed, and if the verification of the integrity of the package fails, prohibiting the distribution of the package;
- if said verifying does not fail, examining said information indicative of the conditions in which the distribution of the package is allowed to determine whether the distribution of the package is allowed; and

---

<sup>1</sup> It is believed the Office is referring to columns 18-19 of Downs since step 133 appears at column 18 of Downs.

- if said examining determines that distribution of the package is allowed, distributing said package.

However, as submitted in applicant's response of February 6, 2009, steps 143-148 of Downs clearly disclose that the Clearinghouse receives and verifies an Order SC (Secure Container), that it has not been tampered with and if so, the Clearinghouse validates the usage conditions of the End-User. These usage conditions are logged in a database. Once these verifications are complete, the encrypted symmetric key is decrypted and then encrypted using the public key of the End-User. The encrypted symmetric key is packaged in a License SC and transmitted to the End-User (Downs, column 19, steps 143-148).

These steps in Downs do not disclose or suggest that the integrity of the information contained in a package, which package contains at least one media object and is intended for distribution by the electronic device, is verified and transmitted.

Furthermore, the Office argues that constructing a formerly integral structure in various parts (a media object and usage condition) involves only routine skill in the art (citing MPEP §2144.04). However, the Office fails to observe that the verification as set forth in claim 1 is not performed on the Content SC, but rather on what would be equivalent to the Order SC (as those terms are used in Downs). The integrity of the Content SC is not checked at all. Therefore, applicant respectfully submits that Downs does not teach all of the features of claim 1 which are argued that it does teach as set forth at pages 2-3 of the final Official Action.

In short, Downs is directed to receiving and verifying an Order Secured Container to insure that it has not been tampered with and if not tampered, to validate the Usage Conditions of the End-User, while in the present invention, verification of the integrity of the information contained in a package (content SC) is performed as part of the claimed method.

It is clear that no verification is made in Downs to determine the integrity of the information of the package which contains the content (that is, the Content SC).

Further, the Usage Conditions discussed in Downs relate, as the name implies, to the conditions in which the usage of the content is allowed. Again, in contrast, claim 1 specifically recites verifying the integrity of the information indicative of the conditions in which distribution of the package is allowed and if verification of the integrity of the package fails, prohibiting the distribution of the package.

For all of the foregoing reasons, it is therefore respectfully submitted that Downs does not teach verifying the integrity of the information included in the same package containing the media object; or that this information is indicative of the conditions in which distribution of the package is allowed.

It is therefore respectfully submitted that claim 1 is distinguished over Downs.

Independent system claim 11, independent electronic device claim 19, independent mobile communication device claim 29, independent computer readable medium claim 31, independent package claim 33, independent business method for distributing a package claim 41, and independent electronic device claim 44 all recite features corresponding to those discussed above with respect to method claim 1 and, for similar reasons, each of these above-recited independent claims is believed to be distinguished over Downs.

Since each of the independent claims of the present application is believed to be allowable, it is respectfully submitted that dependent claims 3-10, 13-18, 21-28, 32, 34-40, and 43 are also distinguished over Downs at least in view of such dependency.

Reconsideration of the rejection of the claims is therefore earnestly solicited and early notice of allowance earnestly requested.

The undersigned respectfully submits that no fee is due for filing this Request for Reconsideration. The Commissioner is hereby authorized to charge to deposit account 23-0442 any fee deficiency required to submit this paper.

Respectfully submitted,

Dated: June 30, 2009

/Alfred A. Fressola/

Alfred A. Fressola  
Attorney for Applicant, Reg. No. 27,550

WARE, FRESSOLA, VAN DER SLUYS  
& ADOLPHSON LLP  
Bradford Green, Building Five  
755 Main Street, P.O. Box 224  
Monroe, CT 06468  
Telephone: (203) 261-1234  
Facsimile: (203) 261-5676  
USPTO Customer No. 004955